

**In The Drawings:**

Please amend Figures 6B and 6C of the drawings as shown on the attached annotated and replacement sheets of drawings.

**REMARKS**

Claims 1-23 have been canceled. Claims 24-31 are newly added. Support for the amendments is found in the existing specification and figures as filed. Accordingly, the amendments do not constitute the addition of new matter. As a result, claims 24-31 remain pending in the present application. Reconsideration of the application in view of the foregoing amendments and following comments is respectfully requested.

**Claim Rejection - 35 U.S.C. §103**

With respect to Paragraph 5 of the Office Action, the Office Action rejected claims 1-8 under 35 U.S.C. §103(a) as being unpatentable over Bozler et al. in view of Revelli. Of the rejected claims, only claim 1 is independent.

Accordingly, applicants respectfully request that the rejection be withdrawn.

When applying 35 U.S.C. §103, the following tenets of patent law must be adhered to:

- (A) The claimed invention must be **considered as a whole**;
- (B) The references must be considered as a whole and must **suggest the desirability** and thus the obviousness of making the combination;
- (C) The references must be **viewed without the benefit of impermissible hindsight vision afforded by the claimed invention** and
- (D) **Reasonable expectation of success** is the standard with which obviousness is determined.

*Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). (MPEP §2141)

Several holdings by the CAFC are as follows:

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, *absent some teaching, suggestion or incentive supporting* the combination. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)

The mere fact that references *can* be combined or modified not render the resultant combination obvious, unless the prior art also suggests the desirability of the combination. *In re Kotzab*, 217 F.3d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). (MPEP §2143.01)

Absent such a showing in the prior art, the examiner has impermissibly used “hindsight” by using the applicant’s teaching as a blueprint to hunt through the prior art or the claimed elements and combine them as claimed. *In re Zurko*, 111 F.3d 887, 42 USPQ2d 1476 (Fed. Cir. 1997) Such an approach would be “an illogical and inappropriate process by which to determine patentability.” *Sensonic, Inc. v. Aerosonic Corp.*, 81 F.3d 1566, 1570, 38 USPQ2d 1551, 1554 (Fed. Cir. 1996)

Bozler et al. discloses a light modulator which comprises a first electrode, a second electrode and supports located between the first electrode and the second electrode, Fig. 27 (a)-(b). Bozler et al. fails to disclose a thermal process used to define a length of a cavity between the first electrode and the second electrode in the embodiment related to “DEFORMABLE MEMBRANE SWITCH” shown as Fig. 27 (a)-(b). In fact, Bozler et al. disclose a baking process in description of the embodiment related to a “**DRY ROLL-UP PROCESS FORMING ELVD**” shown as Fig. 29 (a)-(l), not in the embodiment related to “DEFORMABLE MEMBRANE SWITCH” shown as Fig. 27 (a)-(b). Furthermore, the baking process disclosed at col. 16, line 50-51 is related to curing a patterned photo-resistor layer 18. Even though Bozler et al. disclose a baking process, the baking process is not used to change the length of the cavity between the electrodes 902 and 912 shown in Fig. 27(a). The baking process is used to treat the resist pattern 18 shown in Fig. 29(c).

Bozler et al. discloses that FIGS. 27(a) and 27(b) show a deformable membrane switch (DMS) 900 operated in the reflective mode in schematic cross-section form, col. 15, lines 28-31. In FIG 27(b), a voltage i.e. 20 volts, is applied across the electrodes 902 and 912 causing most of the membrane 902 to lie flat against the insulating layer 914 and look blue or black from the top because electrode 902 forms an antireflection coating on the opaque conducting layer 912. In fact, Bozler et al. disclose a method for operating the “DEFORMABLE MEMBRANE SWITCH”. In the present invention, the thickness of the second electrodes of two optical interference display structures is different. After treating with a thermal process, the second electrode may generate displacement by stress action. Because the stress of the second electrodes with different thickness is different, the displacement of the second electrodes of the optical interference display unit structure is different, therefore, the length of the cavity defined by the first electrode and the second electrode is different. Bolzer et al. also fail to disclose two optical interference display structures with different thickness second electrodes.

Revelli et al. disclose an improved waveguide liquid crystal optical device, not an optical interference display unit. In the waveguide liquid crystal optical device of the invention, propagated light is guided along the longitudinal axis of an elongate mass of liquid crystal and a voltage imposed on the liquid crystal varies the optical path length, without coupling the propagated light out of the waveguide. In the broader aspects of the invention there is provided a waveguide optical device having a guide member for propagation of light in a longitudinal direction. The light in Revelli's invention does not penetrate the first (bottom) electrode 28 or is reflected by the second (upper) electrode 26. The electrodes 26, 28 in Revelli's invention are used to provide the voltage to the liquid crystal for varying the optical path length and the bottom electrode 28 is also used as a support. Revelli et al fail to disclose the electrode 26 is deformable and the thickness of the electrode 26 in a different device is different.

Since neither Bozler nor Revelli teaches the desirability and thus the obviousness of making the combination, 35 U.S.C. §103 is not satisfied. And even if Bozler and Revelli were to be combined in the manner proposed, the proposed combination would not show all of the novel physical features of claim 24 as discussed above. Therefore, the novel features of claim 24 produce new and unexpected results and hence are unobvious and patentable over these references.

Accordingly, Applicant respectfully submits that independent claim 24 as amended is allowable over the art of record and respectfully requests the 35 U.S.C. §103(a) rejection of claim 24 to be reconsidered and withdrawn. In addition, insofar as claims 25-31 depend from independent claim 24 and add further limitations thereto, the 35 U.S.C. §103(a) rejection of these claims should be withdrawn as well.

Reconsideration and withdrawal of this rejection is respectfully requested.

All claims in the present application are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

### **Drawing And Specification Objection**

With respect to Paragraph 2, the Office Action objected to the drawings under 37 CFR section 1.84(p)(5) because it fails to include the reference sign "6122" mentioned in the description.

With respect to Paragraph 2, the Office Action objected to the specification under 37 CFR 1.84(p)(5) because it fail to include the reference sign "6162" mentioned in the drawing.

Applicant submits an amended specification disclosed above. Applicant also submits herewith revised figures for other reference sign errors. Applicant respectfully submits that the Office Action's objection is now overcome.


### **Conclusions**

For all of the above reasons, applicants submit that the specification and claims are now in proper form, and that the claims define patentably over the prior art. Therefore, applicants respectfully request issuance for this case at the earliest convenience.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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A METHOD FOR FABRICATING AN INTERFERENCE DISPLAY UNIT

Application No. 10/706,923

Inventor: Wen-Jian LIN

Annotated Sheet Showing Changes

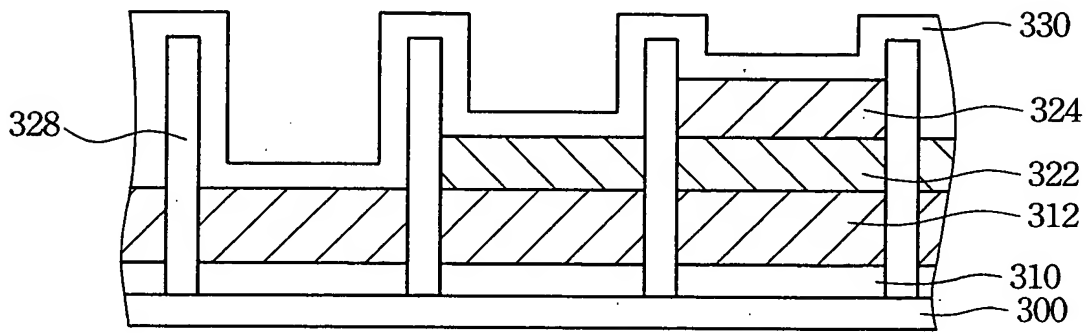


Fig. 5D (PRIOR ART)

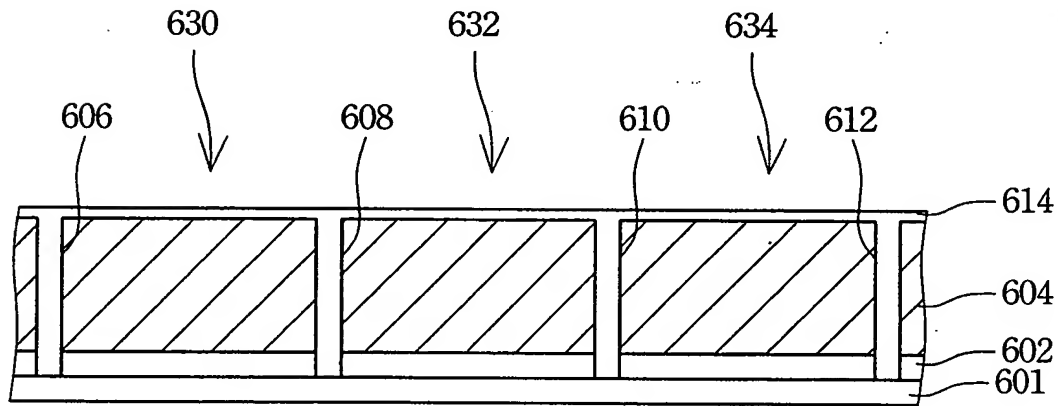


Fig. 6A

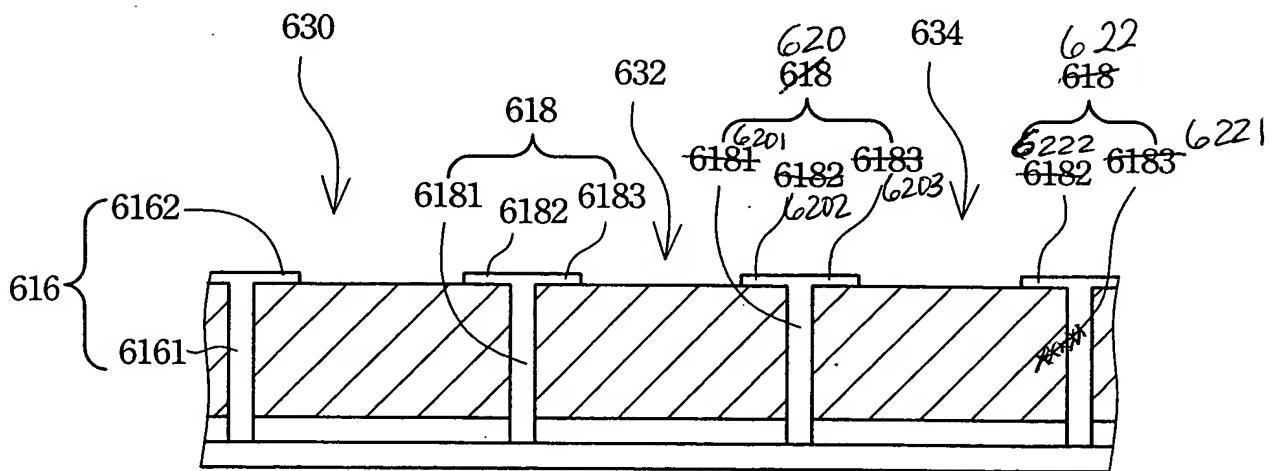


Fig. 6B

# A METHOD FOR FABRICATING AN INTERFERENCE DISPLAY UNIT

Application No. 10/706,923

Inventor: Wen-Jian LIN

Annotated Sheet Showing Changes

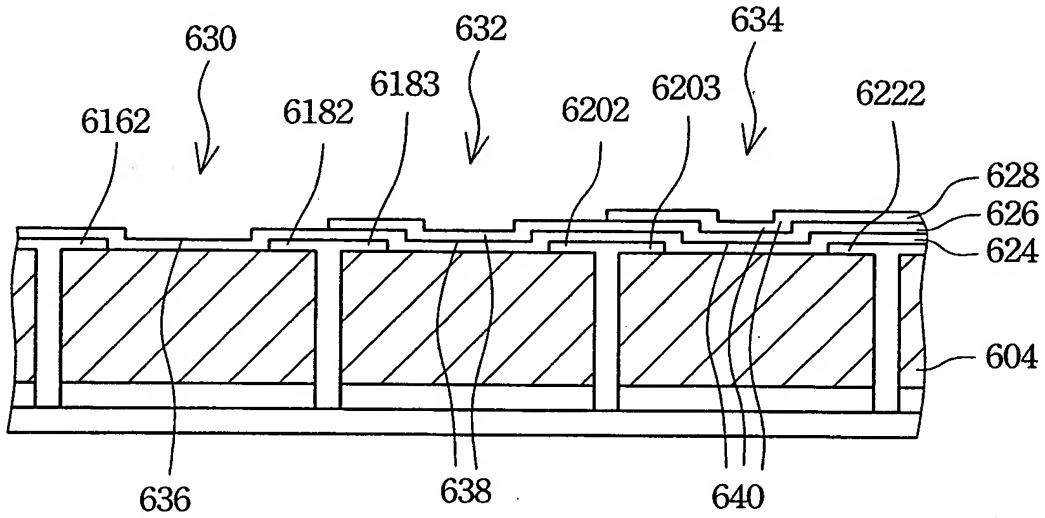


Fig. 6C

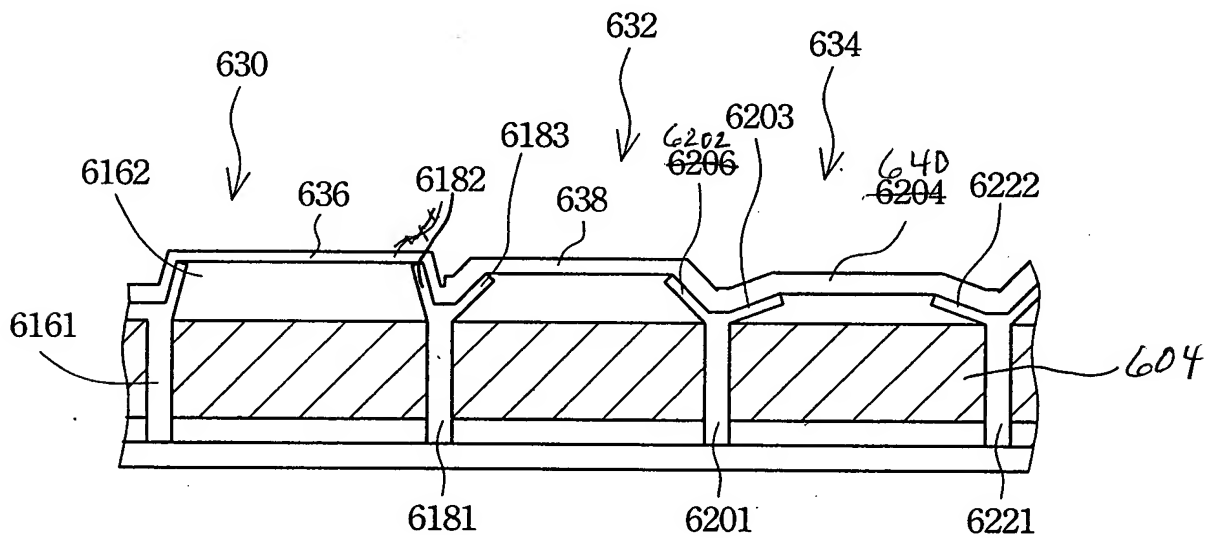


Fig. 6D

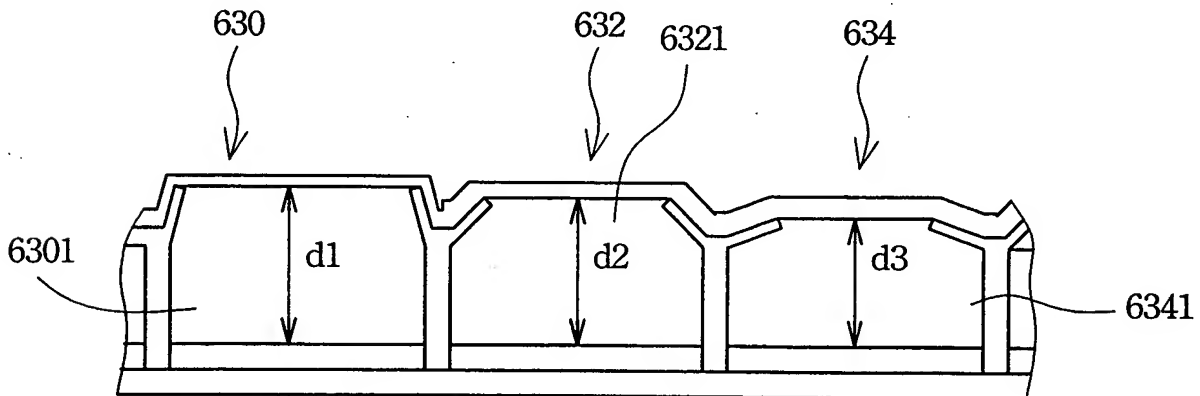


Fig. 6E